

Proposed Rules

Federal Register

Vol. 72, No. 89

Wednesday, May 9, 2007

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL TRADE COMMISSION

16 CFR Part 259

Guide Concerning Fuel Economy Advertising for New Automobiles

AGENCY: Federal Trade Commission.

ACTION: Request for public comments.

SUMMARY: As part of the Commission's systematic review of all current FTC rules and guides, the Commission requests public comment on the overall costs, benefits, necessity, and regulatory and economic impact of the FTC's Guide Concerning Fuel Economy Advertising for New Automobiles ("Fuel Economy Guide" or "Guide"). The Commission is also seeking comments on whether the Guide should be amended in light of recent amendments to the Environmental Protection Agency's ("EPA") fuel economy labeling rules for new automobiles.

DATES: Written comments will be accepted until July 23, 2007.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to "Fuel Economy Guide Review, Matter No. R711008" to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room H-135 (Annex M), 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments containing confidential material, however, must be filed in paper form, must be clearly labeled "Confidential," and must comply with Commission Rule 4.9(c).¹ The FTC is requesting that

¹ The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with

any comment filed in paper form be sent by courier or overnight service, if possible, because postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

Comments filed in electronic form should be submitted by following the instructions on the web-based form at <https://secure.commentworks.com/ftc-fueleconomy>. To ensure that the Commission considers an electronic comment, you must file it on that web-based form. You also may visit <http://www.regulations.gov> to read this proposed Rule, and may file an electronic comment through that Web site. The Commission will consider all comments that www.regulations.gov forwards to it.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC Web site, to the extent practicable, at <http://www.ftc.gov>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy at <http://www.ftc.gov/ftc/privacy.htm>.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, (202) 326-2889, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 601 New Jersey Avenue, NW., Washington, DC 20001.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission adopted the Fuel Economy Guide in 1975 to prevent deceptive fuel economy advertising and to facilitate the use of fuel economy information in advertising. The Guide helps advertisers avoid making claims that are unfair and deceptive under Section 5 of the FTC Act (15 U.S.C. 45). In particular, the Guide contains

applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

specific information about the disclosure of mileage information generated by EPA's well-established fuel economy program. Under EPA regulations (40 CFR Part 600), issued pursuant to the Automobile Information Disclosure Act (15 U.S.C. 2206), vehicle manufacturers must disclose fuel economy numbers on labels attached to new automobiles. In addition, EPA regulations contain specific testing protocols (see 40 CFR Part 86) that manufacturers must use to derive the fuel economy information used on labels.

To avoid deceptive and unfair claims in advertisements that contain fuel economy representations, the FTC's Guide advises marketers to disclose the established fuel economy of the vehicle as determined by the EPA tests. If advertisers make fuel economy claims based on non-EPA tests, the Guide directs them to disclose EPA-derived fuel economy information and provide details about the non-EPA tests such as the source of the test, driving conditions, and vehicle configurations. The Guidance also provides information on how advertisers should make such disclosures (e.g., the prominence of the disclosures in relation to other claims in the ad). In 1978 and in 1995, the Commission amended the Guide to make it consistent with changes to EPA's regulations. (43 FR 55757 (Nov. 29, 1978); and 60 FR 56230 (Nov. 8, 1995)). On December 27, 2006 (71 FR 77872), the EPA published new requirements for fuel economy labeling. The revised EPA rules include modifications to the mandatory fuel economy test that, among other things, incorporate different driving conditions (e.g., cold temperatures) into the determination of fuel mileage estimates. The recent EPA amendments also modify the design of the fuel economy label and require disclosure of combined (city/highway) fuel economy figures.

II. Regulatory Review Program

The Commission reviews all current Commission rules and guides periodically. These reviews seek information about the cost and benefits of the Commission's rules and guides and their regulatory and economic impact. The information obtained assists the Commission in identifying rules and guides that warrant

modification or rescission. Therefore, the Commission solicits comments on, among other things, the economic impact of and the continuing need for the Fuel Economy Guide; possible conflict between the Guide and state, local or other federal laws; and the effect on the Guide of any technological, economic, or other industry changes.

III. Request for Comment

The Commission solicits comments on the following specific questions related to the Guide:

(1) Is there a continuing need for the Fuel Economy Guide? Is the Guide necessary to prevent unfair and/or deceptive practices in advertising for new automobiles? Are there any specific provisions of the Guide that are no longer needed to prevent unfair and/or deceptive advertising practices?

(2) What changes, if any, should be made to the Guide to reflect recent amendments to EPA's fuel economy testing and labeling requirements?

(3) What benefits has the Guide provided to purchasers of new automobiles? Has the Guide imposed costs on purchasers?

(4) What changes, if any, should be made to the Guide to increase its benefits to purchasers? How would these changes affect the costs that the Guide imposes on firms who conform to its advice? How would these changes affect the benefits to purchasers?

(5) What significant burdens or costs, including costs of compliance, has the Guide imposed on firms that conform to its advice? Are any provisions in the Guide duplicative or otherwise unnecessary? Are any of the Guide's provisions unnecessarily prescriptive?

(6) Has the Guide provided benefits to firms that conform to its advice? If so, what benefits?

(7) What changes, if any, should be made to the Guide to reduce the burdens or costs imposed on firms who conform to its advice? How would these changes affect the benefits provided by the Guide?

(8) Does the Guide overlap or conflict with other federal, state, or local laws or regulations?

(9) Since the Guide was issued, what effects have changes in relevant technology or economic conditions had on the Guide?

(10) Are there any unfair and deceptive practices occurring in the promotion or advertising of fuel economy that are not covered by the Guide? If so, what mechanisms should be explored to address such practices (e.g., consumer education, industry self regulation, or revisions to the Guide)?

List of Subjects in 16 CFR Part 259

Advertising, Fuel economy, Trade practices.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E7–8886 Filed 5–8–07; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 946

[VA–125–FOR]

Virginia Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We are announcing receipt of a proposed amendment to the Virginia regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The program amendment revises the Virginia Coal Surface Mining Reclamation Regulations concerning review of a decision not to inspect or enforce. The amendment is intended to specify the time limit for filing a request for review of a decision, and to identify to whom a request for review should be filed.

DATES: We will accept written comments on this amendment until 4 p.m. (local time), on June 8, 2007. If requested, we will hold a public hearing on the amendment on June 4, 2007. We will accept requests to speak at the hearing until 4 p.m. (local time), on May 24, 2007.

ADDRESSES: You may submit comments, identified by VA–125–FOR, by any of the following methods:

- *E-mail:* tdieringer@osmre.gov.

Include VA–125–FOR in the subject line of the message.

- *Mail/Hand Delivery:* Mr. Tim Dieringer, Director, Knoxville Field Office, Office of Surface Mining Reclamation and Enforcement, 1941 Neeley Road, Suite 201, Compartment 116, Big Stone Gap, Virginia 24219.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency docket number for this rulemaking. For detailed

instructions on submitting comments and additional information on the rulemaking process, see the “Public Comment Procedures” heading in the **SUPPLEMENTARY INFORMATION** section of this document. You may also request to speak at a public hearing by any of the methods listed above or by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Docket: You may review copies of the Virginia program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Big Stone Gap Area Office.

Mr. Tim Dieringer, Director, Knoxville Field Office, Office of Surface Mining Reclamation and Enforcement, 1941 Neeley Road, Suite 201, Compartment 116, Big Stone Gap, Virginia 24219, Telephone: (276) 523–4303. E-mail: tdieringer@osmre.gov.

Mr. Leslie S. Vincent, Virginia Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, Virginia 24219, Telephone: (276) 523–8100. E-mail: lsv@mme.state.va.us.

FOR FURTHER INFORMATION CONTACT: Mr. Tim Dieringer, Director, Knoxville Field Office; Telephone: (276) 523–4303. E-mail: tdieringer@osmre.gov.

SUPPLEMENTARY INFORMATION:

- Background on the Virginia Program
- Description of the Proposed Amendment
- Public Comment Procedures
- Procedural Determinations

I. Background on the Virginia Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, “* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act* * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.” See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Virginia program on December 15, 1981. You can find background information on the Virginia program, including the Secretary's findings, the disposition of comments, and conditions of approval of the Virginia program in the December 15, 1981 **Federal Register** (46 FR 61088). You can also find later actions